

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STEVE ST. JULIANA, Personal
Representative of the Estate of HANA
ST. JULIANA, deceased, and REINA
ST. JULIANA, a minor, by her NEXT
FRIEND, STEVE ST. JULIANA,

Plaintiffs,

Judge Mark A. Goldsmith
Magistrate Judge Anthony P. Patti
No. 22-10805

v

OXFORD COMMUNITY SCHOOLS,
NICHOLAS EJAK and SHAWN HOPKINS,

Defendants.

Michael L. Pitt (P24429)
Beth Rivers (P33614)
Megan Bonanni (P52079)
Kevin Carlson (P67704)
Danielle Canepa (P82237)
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NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that Defendants, SHAWN HOPKINS and

NICHOLAS EJAK, hereby appeal to the U.S. Court of Appeals for the Sixth Circuit from the attached Order of Dismissal and Opinion and Order granting in part and denying in part Defendants' motion for judgment on the pleadings entered on May 12, 2023 (DE #53)(Exhibit A, Order of Dismissal); (Exhibit B, May 12, 2023, Opinion in *Jeffrey Franz, et al., v. Oxford Community School District, et al.*, No 21-cv-12871, ECF No. 142, PageID.2219-2245).

Defendants Shawn Hopkins and Nicholas Ejak appeal the District Court's denial of their assertions of qualified immunity as to Plaintiffs' §1983 Substantive Due Process Claims brought under the state created danger theory. The District Court's denial of qualified immunity as to Plaintiffs' claims against Hopkins and Ejak constitutes an appealable final order. 28 U.S.C. § 1291; *Mitchell v. Forsyth*, 472 US 511, 530 (1985); *Martin v. City of Broadview Hts*, 712 F3d 951, 957 (6th Cir 2013).

This appeal of the denial of qualified and absolute immunity does not involve disputed facts on this issue, but rather, presents the purely legal question of whether the District Court mistakenly held that Hopkins and Ejak's actions violated Plaintiffs' clearly established constitutional rights. Accordingly, the U.S. Court of Appeals for the Sixth Circuit has jurisdiction. *See generally, Mitchell v. Forsyth*, 472 US 511, 530 (1985); *Estate of Carter v. City of Detroit*, 408 F.3d 305 (6th Cir 2005).

s/TIMOTHY J. MULLINS
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DATED: June 1, 2023

CERTIFICATE OF ELECTRONIC SERVICE

TIMOTHY J. MULLINS states that on June 1, 2023, he did serve a copy of the **Notice of Appeal** via the United States District Court electronic transmission.

/s/TIMOTHY J. MULLINS
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